

## REMARKS

Applicants wish to thank the Examiner for reviewing the present patent application. Support for the amendments may be found in the specification as originally filed and, for example, on page 7 of the specification. Therefore, all amendments comply with 35 USC §132 and no new matter has been added.

### I. Rejection Under 35 USC §112, Paragraph 2

The Examiner has rejected claims 1-12 under 35 USC §112, paragraph 2 and alleges that the same are indefinite for failing to particularly point out distinctly claim subject matter which Applicants regard as the invention. Particularly, the Examiner notes that the claims recite the invention as a display and dispensing assembly, but the Examiner believes that no actual dispensing means is disclosed in the specification. In view of this, the Examiner requests that the term "dispensing" be deleted.

Notwithstanding the Examiner's apparent position to the contrary, Applicants respectfully submit that the claims are clear in view of the teachings of the specification. Particularly, the term "dispensing" is known to mean to deal out or distribute. The display and dispensing assembly described in the instant claims is one which keeps food products at an appropriate temperature so that the consumer can remove desired product or request desired product from the assembly in order to enjoy such product (which will be at a temperature suitable to keep the product at a predetermined and required temperature). Clearly what is defined is an assembly so that desired consumer product can be dispensed to a consumer. In view of this, Applicants respectfully submit that all claims of record are clear and consistent with 35 USC §112,

paragraph 2. Thus, Applicants respectfully request that the indefinite rejection be withdrawn and rendered moot.

## II. Rejection Under 35 USC §103

The Examiner has rejected claims 1, and 4-12 under 35 USC §103 as being unpatentable over U.S. Patent No. 1,847,544 (hereinafter, '544). In the rejection, the Examiner mentions, in summary, that the '544 reference discloses a display and dispensing assembly including a freezer cabinet and a housing external from the freezer cabinet for storing products until they can be displayed in the cabinet. The Examiner admits that the '544 reference does not disclose the temperature of the housing and the temperature within the cabinet but believes the selection of such temperatures would be a matter of obvious choice to one of ordinary skill in the art. In view of this, the Examiner believes that the obviousness rejection is warranted.

Notwithstanding the Examiner's apparent position to the contrary, it is the Applicants' position that the presently claimed invention is patentably distinguishable from the above-described for at least the following reasons.

As set forth in independent claim 1, described is a display and dispensing assembly for use in combination with a freezer cabinet which has an internal temperature T<sub>1</sub>, the display and dispensing assembly comprising a housing located externally of the freezer cabinet, a chamber within the housing in which products can be stored and from which they can be dispensed, said products being stored at a temperature of T<sub>2</sub> which is higher than T<sub>1</sub>, first heat transfer means within the housing, second heat transfer means intended to be placed inside the freezer cabinet, and means for circulating a heat transfer fluid through the first and second heat transfer means,

and wherein the assembly is removable from the freezer cabinet.

Independent claim 1 is further defined by the dependent claims which claim, among other things, the employment of eutectic materials, the freezing point of the eutectic material, the temperature for T1, as well as the temperature for T2, that the display and dispensing assembly can be returned after being removed consistent with consumer demand for product stored in the display and dispensing assembly and that the display and dispensing assembly does not have its own refrigeration means.

In contrast, the '544 reference merely describes a storage display case suitable to freeze and maintain frozen foods. The storage display case described in the '544 reference has a cabinet which may be divided into a plurality of sections. Within the storage and display case of the '544 reference is a storage compartment, a display compartment and a sales compartment. Thus, food is sold, stored and displayed from a single cabinet where the food that is to be sold, stored and maintained is kept at one temperature low enough to either freeze or maintain the foods frozen within storage containers or cans. Access is given through the device so that product may be obtained by a consumer.

There is no teaching whatsoever in the '544 reference that even remotely suggests a display and dispensing assembly for use in combination with a freezer cabinet as set forth in the presently claimed invention. Clearly, the presently claimed invention is directed to a display and dispensing assembly that may be positioned adjacent to a freezer cabinet such that the freezer cabinet has a temperature which is higher than the assembly so that the second heat transfer means placed with inside the freezer cabinet can be operatively associated with the first heat transfer means within the housing of the

assembly to assist, along with heat transfer fluid, at cooling down the temperature within the display and dispensing assembly. Thus, the display and dispensing assembly itself does not have a refrigeration means like the freezer cabinet. Unexpectedly, the inventors of the present invention have found a very desirable way to combine an existing freezer with an assembly so that the assembly can be cooled to house additional consumer product that may be maintained, for example, at a temperature which is lower than the temperature within the freezer it is sitting adjacent to. Such a combination allows for the refrigeration of consumer product without having to utilize additional electrical resources to cool two refrigeration units.

In view of the above, it is clear that all the important and critical limitations set forth in the presently claimed invention are not found in the '544 reference. Thus, the Examiner has not established a *prima facie* case of obviousness, and the rejection made under 35 USC §103 should be withdrawn and rendered moot.

### III. Rejection Under 35 USC §103

The Examiner has rejected claims 2-4 under 35 USC §103 and alleges that the same are unpatentable over the '544 reference in combination with U.S. Patent No. 6,185,951 (hereinafter, '951).

In the rejection, the Examiner mentions, in summary, that the '544 reference discloses the claimed invention except for a heat transfer means comprising pipes through which fluid is pumped. Nevertheless, the Examiner relies on the '951 reference and suggests that the same describes cooling means comprising pipe through which heat transfer fluid is pumped. In view of this, the Examiner believes that the obviousness rejection is warranted.

Notwithstanding the Examiner's apparent position to the contrary, it is the Applicants' position that the presently claimed invention is patentably distinguishable from the above-described for at least the following reasons.

As already made of record, the '544 reference merely discloses a single storage and display case which has a section for displaying product, a section for storing product and a section which allows for the sales of the product. The '951 reference merely describes a temperature controlled case. The combination of references relied on by the Examiner does not even remotely describe a freezer having a display and dispensing assembly adjacent thereto whereby the freezer comprises a second heat transfer means placed within it to allow for the cooling of the display and dispensing assembly adjacent to it. The display and dispensing assembly adjacent to the freezer has a temperature which is cooler than the freezer thereby allowing one to maintain product at a desired lower temperature without requiring the need for two independent refrigeration units. Particularly, when demand for product is low, the display and dispensing means of the present invention can be easily removed and later returned consistent with consumer demand for product. The combination of references relied on by the Examiner merely describes a storage and display case for frozen foods, wherein the storage and display case has three compartments for storing, selling and displaying food product kept at the same temperature. The temperature control case of the '951 reference merely is a case for displaying chilled and/or frozen products whereby the case can have cooling coils in order to obtain a desired temperature.


In view of the above, it is clear that all the important and critical limitation set forth in the presently claimed invention are not found in the combination of references relied on by the Examiner. Therefore, Applicants respectfully submit that a *prima facie* case of

obviousness has not been established and that the 35 USC §103 rejection should be withdrawn and rendered moot.

Applicants submit that all claims of record are now in condition for allowance and that all claims should now pass to issue.

In the event the Examiner has any questions concerning the present patent application, the Examiner is kindly invited to contact the undersigned counsel at his earliest convenience.

Respectfully submitted,



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Edward A. Squillante, Jr.  
Registration No. 38,319  
Attorney for Applicant(s)

EAS/pod  
(201) 894-2925